

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lazer Licenses, LLC)	
Licensee of:)	File Nos. EB-07-LA-111
)	EB-07-LA-112
KSBQ(AM))	EB-07-LA-113
Santa Maria, California)	
Facility ID # 38442)	NAL/Acct. No. 200732900007
)	
KLMM-FM)	FRN: 0015079908
Morro Bay, California)	
Facility ID # 46401)	
)	
KLUN-FM)	
Paso Robles, California)	
Facility ID # 2243)	

FORFEITURE ORDER

Adopted: February 20, 2008

Released: February 22, 2008

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to Lazer Licenses, LLC, (“Lazer”), the licensee of stations KSBQ(AM), Santa Maria, California, KLMM-FM, Morro Bay, California and KLUN-FM, Paso Robles, California, for willfully and repeatedly violating Section 73.3526 of the Commission’s Rules (“Rules”).¹ On May 17, 2007, the Enforcement Bureau’s Los Angeles Office issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) in the amount of \$12,000 to Lazer for failing to maintain complete public inspection files.² In this *Order*, we consider Lazer’s arguments that the missing portions of their public inspection files were timely prepared but could not be located because of recent staff changes, and that Lazer has since modified its procedures concerning public inspection files for all of their stations.

II. BACKGROUND

2. On March 6, 2007, an agent of the Enforcement Bureau’s Los Angeles Office conducted inspections of the public inspection files for stations KSBQ(AM), KLMM-FM and KLUN-FM at their main studio location in Santa Maria, California. The agent discovered that while the public inspection files were partially complete, there were no issues/programs lists maintained in the public inspection files for any of the three stations subsequent to their license renewal on July 28, 2005. The general manager for the three stations stated that he was fairly new but very familiar with the issues/programs filing requirements and advised the agent that from the date of inspection forward, he was putting his Office

¹ 47 C.F.R. § 73.3526.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732900007 (Enf. Bur., Western Region, Los Angeles Office, released May 17, 2007).

Manager in charge of maintaining and filing these records in the public inspection files. He could not explain why these records for all three stations had not been maintained in the public inspection files subsequent to the stations' license renewal application on July 28, 2005.

3. On May 17, 2007, the Los Angeles Office issued a *NAL* in the amount of \$12,000 to Lazer, finding that Lazer apparently willfully and repeatedly failed to maintain complete public inspection files for KSBQ(AM), KLMM-FM and KLUN-FM. Lazer filed a response ("*Response*") on June 25, 2007,³ arguing that the missing issues/programs lists were timely prepared and were on a different floor of the main studio location but could not be located because of recent staff changes, and that Lazer has since modified its procedures concerning public inspection files for all of their stations.

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Rules,⁵ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("*Forfeiture Policy Statement*").⁶ In examining Lazer's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷

5. Section 73.3526(a)(2) of the Rules requires that every licensee of an AM or FM station shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraphs (e)(12) through (e)(14) of this section as well as paragraph (e)(16) of this section.⁸ Further, as required by Section 73.3526(b) the location of the public file shall be maintained at the station's main studio location,⁹ and pursuant to Section 73.3526(c), the public inspection file shall be available for public inspection at any time during regular business hours.¹⁰

6. Section 73.3526(e)(12) of the Rules requires licensees to place in their public inspection file a list for each calendar quarter, to be filed by the tenth day of the succeeding calendar quarter, a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period.¹¹ This list is known as the issues/programs list. The public inspection files for stations KSBQ(AM), KLMM-FM and KLUN-FM contained no issues/programs lists for any quarters after the license renewal on July 28, 2005, up to the date of the inspection by the agent on March 6, 2007.

7. Lazer states that after receiving the *NAL*, it investigated the matter and found that the missing issues/programs lists were timely prepared and intact but placed in a drawer on the second floor

³ Lazer requested, and received, an extension of time to file its *Response*.

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ 47 C.F.R. § 73.3526(a)(2).

⁹ 47 C.F.R. § 73.3526(b).

¹⁰ 47 C.F.R. § 73.3526(c).

¹¹ 47 C.F.R. § 73.3526(e)(12).

of their studio.¹² Lazer further states that at the time of the inspection the staff was apparently not aware of the location of the issue/programs lists because of recent staff changes. Reductions based on good faith efforts to comply generally involve situations where violators demonstrate that they initiated measures to correct or remedy violations prior to a Commission inspection or investigation.¹³ We accept Lazer's explanation concerning the placement of the issues/programs lists and, consequently, we find that Lazer's efforts warrant a good faith reduction of the proposed forfeiture amount and we reduce the proposed forfeiture from \$12,000 to \$8,000. Because the issue/programs lists were not available for inspection by either the Los Angeles agent or the public, on the day of the inspection, we decline to cancel the forfeiture.

8. Lazer also states that it implemented remedial procedures to ensure that such an occurrence is not repeated. The Commission has consistently held that a licensee is expected to correct errors when they are brought to the licensee's attention and that such correction is not grounds for a downward adjustment in the forfeiture.¹⁴ Additionally, where lapses occur in maintaining the public inspection file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.¹⁵

9. Based on the information before us, having examined it according to the statutory factors above, and in conjunction with the *Forfeiture Policy Statement*, we find that reduction of the proposed forfeiture to \$8,000 is warranted.

IV. ORDERING CLAUSES

10. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules, Lazer Licenses, LLC, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$8,000 for willfully and repeatedly violating Section 73.3526 of the Rules.¹⁶

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁷ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief

¹² Lazer submitted a complete copy of all of the missing issues/programs lists for the three stations with its *Response*.

¹³ See *Radio One Licenses, Inc.*, 18 FCC Rcd 15964, 15965 (2003), *recon. denied*, 18 FCC Rcd 25481 (2003).

¹⁴ *AT&T Wireless Services, Inc.* 17 FCC Rcd 21866, 21871-76 (2002).

¹⁵ See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)).

¹⁶ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 73.3526.

¹⁷ 47 U.S.C. § 504(a).

Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

12. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Lazer Licenses, LLC, at its address of record, and Harry C. Martin, Esquire, Fletcher, Heald & Hildreth, PLC, its counsel of record.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau